

109TH CONGRESS
1ST SESSION

S. 692

To provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2005

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bisti PRLA Dispute
5 Resolution Act”.

6 **SEC. 2. WITHDRAWAL OF COAL PREFERENCE RIGHT LEASE**
7 **APPLICATIONS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, if any of the coal preference right lease appli-

1 cations captioned NMNM 3752, NMNM 3753, NMNM
2 3754, NMNM 3755, NMNM 3835, NMNM 3837, NMNM
3 3918, NMNM 3919, NMNM 6802, NMNM 7235, and
4 NMNM 8745 are withdrawn by the holder or holders of
5 the applications, the Secretary of the Interior, acting
6 through the Bureau of Land Management (referred to in
7 this Act as the “Secretary”), shall issue under section
8 4(a)(2) to each such holder or holders a certificate of bid-
9 ding rights (in such form and manner as provided for
10 under regulations promulgated by the Secretary under the
11 Mineral Leasing Act (30 U.S.C. 181 et seq.)) that con-
12 stitutes the combined fair market value, as determined
13 under section 3, of the coal reserves for each coal pref-
14 erence right lease application withdrawn by the holder.

15 (b) RELINQUISHMENT.—The relinquishment of all
16 rights associated with the coal preference lease applica-
17 tions withdrawn shall be effective on the date of the
18 issuance of the certificate of bidding rights under section
19 4(a)(2).

20 (c) NO ADJUDICATION.—The withdrawals and
21 issuances required under subsection (a) shall occur with-
22 out any further adjudication of coal preference right lease
23 applications by the Secretary.

1 **SEC. 3. METHOD FOR DETERMINING FAIR MARKET VALUE.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, this section shall apply to the issuance of a
4 certificate of bidding rights under section 4(a)(2).

5 (b) VALUE OF COAL RESERVES.—

6 (1) IN GENERAL.—The fair market value of the
7 coal reserves of any coal preference right lease appli-
8 cation withdrawn under section 2(a) shall be deter-
9 mined by the panel established under paragraph (2).

10 (2) PANEL.—

11 (A) ESTABLISHMENT.—Not later than 30
12 days after the date of enactment of this Act,
13 the Secretary shall establish a panel to deter-
14 mine the fair market value of the coal reserves
15 of any coal preference right lease applications
16 withdrawn under section 2(a).

17 (B) MEMBERSHIP.—The panel shall be
18 composed of 3 representatives, of whom—

19 (i) 1 representative shall be appointed
20 by the Secretary;

21 (ii) 1 representative shall be appointed
22 by the holder of the preference right lease
23 application; and

24 (iii) 1 representative shall be ap-
25 pointed by the Governor of the State of
26 New Mexico.

1 (3) MINERAL APPRAISER.—The Secretary shall
 2 contract with a qualified coal reserve appraiser to
 3 assist the panel established under paragraph (2)(A)
 4 in determining the fair market value of a coal re-
 5 serve.

6 (4) SUPPLEMENTAL INFORMATION.—In deter-
 7 mining the fair market value of a coal reserve, the
 8 panel may supplement any information provided to
 9 the panel, as the panel determines to be appropriate.

10 (5) DETERMINATION.—Not later than 75 days
 11 after the date on which the panel is established
 12 under paragraph (2)(A), the panel shall submit to
 13 the Secretary the determination of the panel with re-
 14 spect to the fair market value of a coal reserve of
 15 any coal preference right lease application with-
 16 drawn by the holder.

17 **SEC. 4. ISSUANCE OF BIDDING RIGHTS TO HOLDERS OF RE-**
 18 **LINQUISHED PREFERENCE RIGHT LEASE AP-**
 19 **PLICATIONS.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
 21 sion of law, not later than 120 days after the withdrawal
 22 of a coal preference right lease application, the Secretary
 23 shall—

1 (1) accept the relinquishment of the rights as-
2 sociated with the coal preference right lease applica-
3 tion; and

4 (2) issue a certificate of bidding rights in the
5 amount of the fair market value determined under
6 section 3.

7 (b) ENFORCEMENT.—The duties of the Secretary
8 under this section shall be considered nondiscretionary
9 and enforceable in a mandamus proceeding brought under
10 section 1361 of title 28, United States Code.

11 **SEC. 5. USE OF EXCHANGE BIDDING RIGHTS.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law—

14 (1) a certificate of bidding rights issued under
15 section 4(a)(2) shall—

16 (A) be subject to such procedures as the
17 Secretary may establish pertaining to notice of
18 transfer and accountings of holders and their
19 balances;

20 (B) be transferable by the holder or hold-
21 ers of the certificate of bidding rights in whole
22 or in part; and

23 (C) constitute a monetary credit that, sub-
24 ject to paragraph (2), may be applied, at the

1 election of the holder or holders of the certifi-
2 cate of bidding rights, against—

3 (i) rentals, advance royalties, or pro-
4 duction royalties payable to the Secretary
5 under Federal coal leases; and

6 (ii) bonus payments payable to the
7 Secretary in the issuance of a Federal coal
8 lease or Federal coal lease modification
9 under the coal leasing provisions of the
10 Mineral Leasing Act (30 U.S.C. 181 et
11 seq.); and

12 (2) in a case in which a certificate of bidding
13 rights issued under section 4(a)(2) is applied by the
14 holder or holders of the certificate of bidding rights
15 as a monetary credit against a payment obligation
16 under a Federal coal lease, the holder or holders—

17 (A) may apply the bidding rights only
18 against 50 percent of the amount payable under
19 the lease; and

20 (B) shall pay the remaining 50 percent as
21 provided for under the lease in cash or cash
22 equivalent.

23 (b) PAYMENT UNDER LEASE OBLIGATIONS.—Any
24 payment of a Federal coal lease obligation by the holder

1 or holders of a certificate of bidding rights issued under
2 section 4(a)(2)—

3 (1) shall be treated as money received under
4 section 35 of the Mineral Leasing Act (30 U.S.C.
5 191); but

6 (2) shall be credited and redistributed by the
7 Secretary only as follows:

8 (A) 50 percent of the amount paid in cash
9 or its equivalent shall be—

10 (i) distributed to the State in which
11 the lease is located; and

12 (ii) treated as a redistribution under
13 section 35 of the Mineral Leasing Act (30
14 U.S.C. 191).

15 (B) 50 percent of the amount paid through
16 a crediting of the bidding rights involved shall
17 be treated as a payment that is subject to redis-
18 tribution under that section to the Reclamation
19 and Miscellaneous Receipts accounts in the
20 Treasury.

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